

Date: June 2, 2011

To: Senate Committee on Judiciary, Utilities, Commerce and Government Operations

From: Senator Glenn Grothman

Re: Senate Bill 44, which changes the morning closing hours for Class "A" and "Class A" retailers from 8:00 a.m. to 6:00 a.m.

Dear Members of the Judiciary, Utilities, Commerce and Government Operations Committee:

Thank you for giving me the opportunity to testify.

As you know, Senate Bill 44 changes the morning closing hours for Class "A" and "Class A" retailers from 8:00 a.m. to 6:00 a.m. in order to facilitate more flexibility for retailers and consumers

It also puts these retailers on par with the morning opening hour of establishments operating under a Class "B," "Class B," or "Class C" retail license (a tavern, bar, or restaurant) who may open at 6:00 a.m.

The current law that allows alcohol license holders to sell alcoholic beverages between the hours of 8:00 a.m. and 9:00 p.m. should be updated to reflect the flexibility needed to accommodate consumers who, for example, may want to purchase items early, at the start of a camping or recreational trip.

The restrictions on retailing alcohol at certain times by Class "A" and "Class A" retailers are impractical and arbitrary, and do not consider the needs of grocers around the state to be able to provide optimum service to their customers. Instead current law provides awkward situations of a merchant having to explain to a customer why he or she may not buy certain items along with the rest of those in their cart at the point of sale. Items must sometimes be re shelved, and the inconvenience of a second trip to the same place often inhibits a customer's ability to return for the items at a later time.

The current starting time of 8:00 a.m. also discourages customers from giving business to local merchants when they must wait, when leaving town early for a weekend trip or vacation, to purchase alcohol beverages later in the day on the way to, or after having arrived at, their destination.

Although concern for alcohol abusers should not be taken lightly, allowing more lenient time restrictions on alcohol license holders in this way will not substantially increase any risk of alcohol abuse (in general a retailer operating as a tavern, bar, or restaurant may be open between the hours of 6:00 a.m. and 2:00 a.m.) and allow Class "A" and "Class A" retailers more opportunity to obtain revenue and provide excellent customer service.

Please join me in supporting Senate Bill 44.

Thank you.



Testimony of
Nina J. Emerson, Director
Resource Center on Impaired Driving
University of Wisconsin Law School

2011 Senate Bill 44

Committee on Judiciary, Utilities, Commerce,
and Government Operations
201 Southeast State Capitol
Thursday, June 2, 2011

Thank you, Chairperson Zipperer, Vice-Chair Kedzie, and members of the Committee on Judiciary, Utilities, Commerce, and Government Operations for the opportunity to testify on Senate Bill 44. My name is Nina Emerson. I am an attorney and the director of the Resource Center on Impaired Driving at the University of Wisconsin Law School. My testimony today is for information purposes only. The Resource Center does not take a formal position on SB 44 as the Center is designed to serve as a neutral clearinghouse on impaired driving issues.

When you are considering the merits of the proposed legislation to expand the hours of sale of alcohol in Wisconsin, please remember that in 2010, the Centers for Disease Control and Prevention (CDC) reported that Wisconsin ranks No. 1 in terms of adult binge drinking at 23.9%. The national average was 15.2%. Further, the Substance Abuse & Mental Health Services Administration (SAMHSA) reported in 2010 that Wisconsin residents ranked No. 1 in self reporting driving under the influence at 23.7%. The national average is 13.2%. This was not the first time Wisconsin was at the top of the national charts. In 2008, SAMSA reported Wisconsin ranked No. 1 in self reporting driving under the influence at 26.4 %. The national average that year was 15.1%.

Unfortunately, Wisconsin has a very serious problem related to alcohol use, which has been going on for a long time. In 2000, alcohol consumption was the third leading cause of death for Wisconsin residents¹. In 2008, 1,624 people died; 4,319 people were injured; and 94,000 were arrested as a direct result of alcohol use and misuse. The cost in alcohol-related hospitalizations for 2008 was more than \$1 billion.²

¹ The leading cause was tobacco, followed by poor diet and physical inactivity. *Wis. Epidemiological Profile on Alcohol and Other Drug Use*, 2010.

² *Id.*

How will 2011 Senate Bill 44 help Wisconsin residents? How will 2011 Senate Bill 44 improve the quality of life for Wisconsin residents? How will 2011 Senate Bill 44 help Wisconsin get out of its No. 1 ranking in terms of binge drinking and driving under the influence? Will you be helping improve the health and safety of Wisconsin residents by allowing them to purchase alcohol at 6:00 a.m. as opposed to 8:00 a.m.? Does Wisconsin really need this law?

Nina J. Emerson
Director
Resource Center on Impaired Driving

Substance Abuse & Mental Health Services Administration

SAMHSA News Release

Date: 12/9/2010 12:05 AM

Media Contact: SAMHSA Press Office

Telephone: 240-276-2130

In an average year 30 million Americans drive drunk - 10 million drive impaired by illicit drugs.

Past year drunk driving rates topped 20 percent in some states.

A new survey by the Substance Abuse and Mental Health Services Administration (SAMHSA) indicates that on average 13.2 percent of all persons 16 or older drove under the influence of alcohol and 4.3 percent of this age group drove under the influence of illicit drugs in the past year.

The survey's state-by-state breakdown of drunk and drugged driving levels shows significant differences among the states. Some of the states with the highest levels of past year drunk driving were Wisconsin (23.7 percent) and North Dakota (22.4 percent). The highest rates of past year drugged driving were found in Rhode Island (7.8 percent) and Vermont (6.6 percent).

States with the lowest rates of past year drunk driving included Utah (7.4 percent) and Mississippi (8.7 percent). Iowa and New Jersey had the lowest levels of past year drugged driving (2.9 percent and 3.2 percent respectively).

Levels of self-reported drunk and drugged driving differed dramatically among age groups. Younger drivers aged 16 to 25 had a much higher rate of drunk driving than those aged 26 or older (19.5 percent versus 11.8 percent). Similarly people aged 16 to 25 had a much higher rate of driving under the influence of illicit drugs than those aged 26 or older (11.4 percent versus 2.8 percent).

The one bright spot in the survey is that there has been a reduction in the rate of drunk and drugged driving in the past few years. Survey data from 2002 through 2005 combined when compared to data gathered from 2006 to 2009 combined indicate that the average yearly rate of drunk driving has declined from 14.6 percent to 13.2 percent, while the average yearly rate of drugged driving has decreased from 4.8 percent to 4.3 percent. Twelve states have seen reductions in the levels of drunk driving and seven states have experienced lower levels of drugged driving. However according to the National Highway Traffic Safety Administration's Fatal Accident Reporting System (FARS) census, one in three motor vehicle fatalities (33 percent) with known drug test results tested positive for drugs in 2009.

"Thousands of people die each year as a result of drunk and drugged driving, and the lives of thousands of family members and friends left behind are forever scarred," said SAMHSA Administrator Pamela S. Hyde, J.D. "Some progress has been made in reducing the levels of drunk and drugged driving through

education, enhanced law enforcement and public outreach efforts. However, the nation must continue to work to prevent this menace and confront these dangerous drivers in an aggressive way.”

“While we have understood for some time the dangers of driving under the influence of alcohol, much less is known or discussed about drivers under the influence of other drugs,” said Gil Kerlikowske, Director of National Drug Control Policy. “This new data adds to other emerging research revealing that there is an alarmingly high percentage of Americans on our roadways with drugs in their system. At a time when drug use is on the rise, it is crucial that communities act today to address the threat of drugged driving as we work to employ more targeted enforcement and develop better tools to detect the presence of drugs among drivers.”

State Estimates of Drunk and Drugged Driving is based on the combined data from the 2002 to 2005 and 2006 to 2009 National Surveys on Drug Use and Health (NSDUH) and involves responses from more than 423,000 respondents aged 16 or over. NSDUH is a primary source of information on national and state-level use of tobacco, alcohol, illicit drugs (including non-medical use of prescription drugs) and mental health in the United States. The survey is part of the agency’s strategic initiative on behavioral health data, quality and outcomes. A copy of the report is accessible at: <http://oas.samhsa.gov/2k10/205/DruggedDriving.cfm>.

For the latest information about the public health risks of alcohol misuse one can go to <http://www.stopalcoholabuse.gov/>. This site provides updated information about the risks, such as drunk driving, as well as new and effective prevention strategies and activities. Another SAMHSA Web site (<http://prevention.samhsa.gov/>) provides comprehensive information about SAMHSA’s substance abuse prevention research, support and public outreach activities.

In addition, the National Highway Traffic Safety Administration has a Web site at <http://www.stopimpaireddriving.org/> that provides detailed information about the dangers of drunk and drugged driving and what can be done to help combat the problem.

SAMHSA is a public health agency within the Department of Health and Human Services. Its mission is to reduce the impact of substance abuse and mental illness on America’s communities.

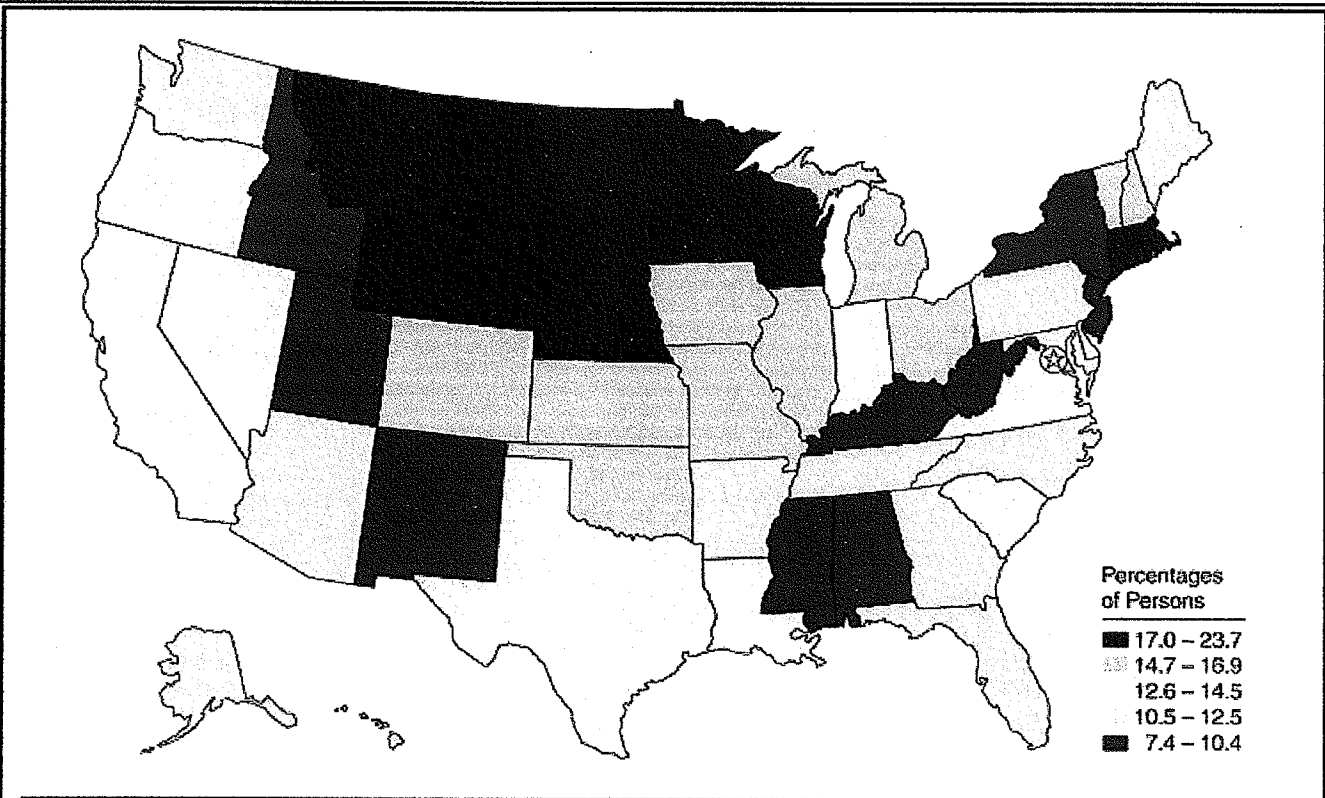
Last updated: 12/9/2010 11:54 AM

presented in color-coded maps shown in Figures 1 and 2. States with the highest estimates fall into the top quintile and are shown in red on the maps; States with the lowest estimates are in the bottom quintile and are shown in blue.⁷ Additionally, the combined 2006 to 2009 data are compared with the combined 2002 to 2005 data to examine changes over time.

Driving under the Influence of Alcohol

Combined 2006 to 2009 data indicate that 13.2 percent of persons aged 16 or older (an estimated 30.6 million persons) drove under the influence of alcohol in the past year. The rates of drunk driving were among the highest in Wisconsin (23.7 percent) and North Dakota (22.4 percent) and among the lowest in Utah (7.4 percent) and Mississippi (8.7 percent) (Figure 1).

Figure 1. Percentages of Persons Aged 16 or Older Driving under the Influence of Alcohol in the Past Year, by State: 2006 to 2009



Source: 2006 to 2009 SAMHSA National Surveys on Drug Use and Health (NSDUHs).

Figure 1 Table. Percentages of Persons Aged 16 or Older Driving under the Influence of Alcohol in the Past Year, by State: 2006 to 2009

Percentages of Persons				
17.0% to 23.7%	14.7% to 16.9%	12.6% to 14.5%	10.5% to 12.5%	7.4% to 10.4%
Connecticut	Colorado	California	Alaska	Alabama
Massachusetts	Hawaii	Delaware	Arizona	Idaho
Minnesota	Illinois	District of Columbia	Arkansas	Kentucky
Montana	Iowa	Indiana	Florida	Mississippi
Nebraska	Kansas	Louisiana	Georgia	New Jersey

Julia Sherman
6729 Frank Lloyd Wright Ave. #200
Middleton, WI 53562

Senator Rich Zipperer, Chairman
Senate Committee on Judiciary, Utilities, Commerce, and Government Operations
Room 323 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

June 2, 2011

Mr. Chairman:

Thank you for the opportunity to comment on Senate Bill 44. While many Wisconsin adults enjoy alcohol beverages in moderation, Wisconsin's level of underage drinking, risky drinking and heavy drinking are among the highest, if not the highest, in the nation. Wisconsin has the highest rate of heavy alcohol use and binge drinking in the nation. Wisconsin's per capita consumption of alcohol (approximately 3 gallons per person) is also the highest in the nation.ⁱ ⁱⁱ Both Wisconsin's Gannett newspapers and the Milwaukee Journal-Sentinel documented Wisconsin's alcohol problem in two different award winning series.

Wisconsin's alcohol related problems are extreme, but not unique. Other states and nations struggle with alcohol control issues and many have improved their alcohol culture saving billions each year while improving productivity. Senate Bill 44 is a step in the wrong direction; it will be detrimental to our residents, our economy and perpetuates a false image of our state.

There is significant evidence that the physical availability of alcohol plays a role in consumer demand for alcohol - evidence that availability may increase demand.ⁱⁱⁱ There is only one credible reason to consider selling alcohol at 6:00 a.m. – to sell more alcohol.

Restricting the hours and number of alcohol retailers has been identified as an effective method to reduce harmful alcohol use by the World Health Organization, yet SB44 increases the availability of alcohol. Alcohol is readily available now; Wisconsin has a one licensed outlet for off-premises alcohol consumption for every 1,534 residents in the state.^{iv} The assertion that current law places any sort of hardship on Wisconsin residents is unfounded.

Wisconsin's law limiting off-premises alcohol sales before 8:00 a.m. is typical for the nation; twenty-one states (including Wisconsin) allow alcohol sales to begin at 8:00 am or later, 20 states allow earlier alcohol purchases and nine states make hours of sale a local decision.^v

This is not a harmless technical adjustment. All off-premises alcohol sales are Class A retailers. While this change allows grocers to sell alcohol, it also allows 6:00 am alcohol sales at gas stations, convenience stores, big box retailers – anyplace that sells alcohol for off-premises consumption could begin alcohol sales as early as 6:00 a.m. Based on the number of Class A licenses in Wisconsin, Senate Bill 44 could create an additional 7,370 additional hours of alcohol sales in Wisconsin *each day*, if passed.

This proposal is – at best - a zero-sum game. What would become the early morning alcohol sales locally, are the existing local sales in our tourism and recreational areas. There is no real economic benefit and the significant increase in the hours of alcohol sale raise the likelihood of unintended but costly negative consequences.

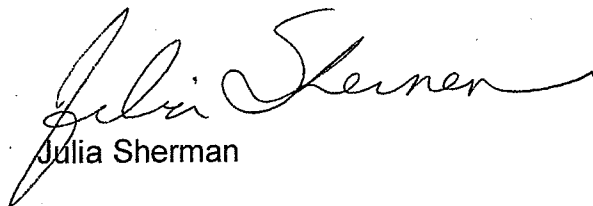
Early morning alcohol sales will exacerbate alcohol-related business and safety problems. Sixty-five percent of heavy drinkers are employed according to Ensuring Solutions at The George Washington University; workers with alcohol problems are 2.7 times more likely, than workers without drinking problems, to have injury related absences.

Another study reported that 16% of emergency room patients, injured at work, had detectable levels of alcohol in their systems and 11% of workplace fatalities had been drinking.^{vi} One emergency room study showed that 35% of patients with an occupational injury were at-risk drinkers.

Heavy drinking employees' call-in sick more frequently, an average of 11 days per year, and go to the emergency room 33% more than the general population^{vii}. An estimated 20% of workers say they have been injured, covered for a co-worker or needed to work harder as a result of a co-workers drinking.^{viii} Federal surveys found workers in the Midwest have the highest prevalence of past year heavy alcohol use (10.6% %) a regional distinction that may concern potential employers.^{ix} Wisconsin's excessive level of alcohol use increases health care costs, the likelihood of workplace injuries and the number of highway deaths.

Wisconsin has the highest number of alcohol outlets per person in the nation. As a result, limiting alcohol sales to the common and reasonable 8:00 a.m. existing time does not impose a hardship on anyone. This bill does not offer any economic benefits and the proposed change carries significant risks.

Sincerely,



Julia Sherman

ⁱ Wisconsin Epidemiological Profile on Alcohol and Other Drug Use, 2010, Wisconsin Department of Health Services, November 2010. Page 12-13.)

ⁱⁱ Wisconsin Department of Health Service, Wisconsin Epidemiological Profile on Alcohol and Other Drug Use, 2010. November 2010, page

ⁱⁱⁱ Babor, et.al. Alcohol: No Ordinary Commodity, second edition, 2010 Oxford University Press, p 128.

^{iv} Personal correspondence with Roger Johnson, Wisconsin Depart of Revenue regarding number of Class A establishments in Wisconsin

^v National Restaurant Association, Select State Laws Governing On-Premises Alcohol Sales, 2004.

^{vi} Stallones, L., Kraus, J. *The occurrence and epidemiologic features of alcohol-related occupational injuries*. *Addiction* (1993) 88, 945-951

^{vii} Ensuring Solutions, The George Washington University The Facts About The Impact of Problem Drinking, Ensuring Solutions,

^{viii} Ensuring Solutions, The George Washington University The Facts About The Impact of Problem Drinking, Ensuring Solutions,

^{ix} Substance Abuse and Mental Health Administration, National survey On Drug Use and Health, 2003, 2004, 2005, Table 2.3